

# **Exhibit 20**

## **Omnibus Mao Declaration**

**MATERIALS SOUGHT TO  
BE FILED UNDER SEAL**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ANIBAL RODRIGUEZ, JULIEANNA )  
MUNIZ, ELIZA CAMBAY, SAL ) Case No.:  
CATALDO, EMIR GOENAGA, JULIAN ) 3:20-cv-04688  
SANTIAGO, HAROLD NYANJOM, KELLIE )  
NYANJOM, and SUSAN LYNN HARVEY, )  
individually and on behalf of all )  
others similarly situated, )  
 )  
Plaintiffs, )  
vs. )  
 )  
GOOGLE LLC, )  
 )  
Defendant. )  
----- )

\*\*\*HIGHLY CONFIDENTIAL - ATTORNEYS EYES ONLY\*\*\*

REMOTE PROCEEDINGS OF THE  
VIDEOTAPED DEPOSITION OF SAM HEFT-LUTHY  
WEDNESDAY, FEBRUARY 8, 2023

REPORTED BY NANCY J. MARTIN  
CSR. NO. 9504, RMR, RPR  
PAGES 1-143

1 Let's go off the record.

2 THE VIDEOGRAPHER: Going off the record. The  
3 time is 12:55 p.m.

4 (A recess was taken from 12:55 p.m.  
5 to 1:12 p.m.)

6 THE VIDEOGRAPHER: We're back on the record.  
7 The time is 1:12 p.m.

8 BY MR. SILA:

9 Q. Okay. Mr. Heft-Luthy, do you remember  
10 whether Sundar Pichai testified before Congress in  
11 December 2018?

12 A. Remember what about it?

13 Q. Remember the event, that it happened.

14 A. I do remember that it happened.

15 Q. Okay. Did you watch Mr. Pichai's testimony?

16 A. I don't recall.

17 MR. SILA: Okay. I've introduced a document  
18 that's been marked as Plaintiffs' Exhibit 350.

19 (Deposition Exhibit 350 was marked for  
20 identification.)

21 MR. SILA: And for the record, this is  
22 GOOG-RDGZ-00087672.

23 Let me know when you have it.

24 (Pause.)

25 THE WITNESS: I have it.

1 BY MR. SILA:

2 Q. All right. This is a transcript of a chat  
3 between you and a bunch of folks, including Greg Fair,  
4 Miguel Guevara, and David Monsees, and a few others on  
5 December 11, 2018; correct?

6 A. This is in the format of an E-mail with the  
7 subject "PDPO PM."

8 Q. Okay. Are all of the people in the "to" line  
9 here, are all of those product managers in the PDPO as  
10 of the date of this E-mail?

11 MR. SANTACANA: Calls for speculation.

12 THE WITNESS: I don't recall with specificity  
13 whether everybody had that role.

14 MR. SILA: Okay. And I just want to note for  
15 the videographer, I think, that Mr. Heft-Luthy is not  
16 pinned right now.

17 Q. Okay. So you start -- you say, "anybody  
18 watching the Sundar testimony?" Do you see that?

19 A. I do see that.

20 Q. Sorry. I realized that when I was  
21 referencing Mr. Pichai before, I was referring to  
22 Sundar Pichai. Is that who you're referencing here?

23 A. I can't say with specificity.

24 Q. Do you know any other Sundars?

25 A. Not to my recollection.

1 Q. Okay. Do you know if you've ever watched  
2 testimony given by any other person named Sundar?

3 A. I don't recall.

4 Q. Okay. Do you remember whether any other  
5 person named Sundar that you're aware of gave  
6 testimony whether you watched it or not?

7 MR. SANTACANA: Vague.

8 THE WITNESS: I don't recall.

9 BY MR. SILA:

10 Q. Safe to say you're probably referring to  
11 Mr. Pichai's testimony in December of 2018 here;  
12 right?

13 MR. SANTACANA: Asked and answered.

14 THE WITNESS: I don't know what this is in  
15 reference to necessarily.

16 BY MR. SILA:

17 Q. Okay. Do you see that you sent a link  
18 c-span.org/video and there's some numbers. It says,  
19 "google-ceo-sundar-pichai-testifies-data-privacy-bias-  
20 concerns." Do you see that?

21 A. I do.

22 Q. Does that refresh your recollection about  
23 what you're talking about in this chat transcript?

24 A. No.

25 Q. It could be anybody (inaudible).

1 (The Reporter requested clarification.)

2 BY MR. SILA:

3 Q. You could be referring to anybody's testimony  
4 at all here. Is that your testimony here today under  
5 oath?

6 A. My testimony is that I don't recall to the  
7 level of specificity that I would be willing to  
8 testify under oath that that was Sundar Pichai's  
9 testimony.

10 Q. Okay. So you write down -- about halfway  
11 through you say, "asked a question about android data  
12 right at the top and Sundar's answer was not great."

13 Do you see that?

14 A. I do see that.

15 Q. Do you remember the answer that Sundar gave?

16 A. No.

17 Q. Do you remember why it was not great?

18 A. No.

19 Q. Okay. Now, Miguel Guevara, a couple lines  
20 up, he says, "Watching now."

21 And then he says, "perception is reality +  
22 1000." Do you have any idea what that means?

23 MR. SANTACANA: Calls for speculation.

24 THE WITNESS: I don't.

25 BY MR. SILA:

1 Q. Okay. And then he responds and says,  
2 "Pinecone FTW!" "FTW" is for the win; right?

3 MR. SANTACANA: Calls for speculation.

4 THE WITNESS: I don't know with specificity  
5 what FTW does or doesn't refer to.

6 BY MR. SILA:

7 Q. Do you know what Pinecone refers to?

8 MR. SANTACANA: Calls for speculation.

9 THE WITNESS: In parlance within the PDPO  
10 team, Pinecone would often be used to refer to a user  
11 research program, a series of user research efforts.

12 BY MR. SILA:

13 Q. Okay. Are those user research efforts --  
14 scratch that. Okay.

15 Is the phrase "perception is reality"  
16 associated with those user research efforts in any  
17 way?

18 MR. SANTACANA: Calls for speculation.  
19 Vague.

20 THE WITNESS: I don't recall.

21 MR. SILA: Okay. I'm going to introduce an  
22 exhibit that's been previously marked as Plaintiffs'  
23 Exhibit 339.

24 (Previously marked Exhibit 339 was made  
25 available to the witness.)

1 MR. SILA: Let me know when you have it.

2 (Pause.)

3 THE WITNESS: I have it here.

4 BY MR. SILA:

5 Q. Now, this is a clip of Mr. Pichai's testimony  
6 on the date of that chat, which is December 11, 2018,  
7 just a couple minutes long. Could you please watch  
8 it, and I'll have just a quick question about -- maybe  
9 a couple quick questions about it as it relates to the  
10 chat that we were just looking at.

11 THE WITNESS: So this should be -- I should  
12 just hit "Play" on the PowerPoint and watch the clip?

13 MR. SILA: Yeah. I think that will work.

14 (The witness reviewed the footage.)

15 MR. SILA: Let me know when you've finished.

16 (Pause.)

17 THE WITNESS: Okay. Complete.

18 MR. SILA: Okay.

19 (The Reporter requested clarification.)

20 (A discussion was held.)

21 MR. SANTACANA: Okay. Thanks.

22 Just a question, Ryan, are you going to put a  
23 transcript of this into the record somehow, or what's  
24 your plan here?

25 MR. SILA: We can follow up about that. I



1 think that's what we'd like to do, but I can talk to  
2 you about that, Eduardo.

3 MR. SANTACANA: Okay.

4 BY MR. SILA:

5 Q. Okay. Is this the testimony that you thought  
6 was not great?

7 A. I don't recall.

8 Q. Okay. Sitting here today and watching the  
9 testimony, did you think Mr. Pichai's answers were not  
10 great?

11 MR. SANTACANA: Vague.

12 THE WITNESS: I think the criteria that I  
13 would be evaluating them before might be very  
14 different than now. I think caring about whether it's  
15 great or not great maybe is a little different here.  
16 So I'm happy to answer any questions about my  
17 recollection of it.

18 BY MR. SILA:

19 Q. Okay. Mr. Pichai referenced that Google  
20 shows all the information it has back to the user.

21 Is that true?

22 MR. SANTACANA: Calls for speculation.

23 THE WITNESS: I wouldn't be able to answer  
24 whether that's true or not.

25 BY MR. SILA:

1 Q. Are you aware of any information that Google  
2 has and collects from users that does not show back to  
3 them?

4 MR. SANTACANA: Calls for speculation.  
5 Vague.

6 THE WITNESS: I don't know.

7 BY MR. SILA:

8 Q. Okay. Do you know whether Google provides  
9 users with a toggle that they can use to stop Google  
10 from collecting all data from their activity on  
11 third-party apps?

12 MR. SANTACANA: Vague. Calls for  
13 speculation.

14 THE WITNESS: I don't know.

15 BY MR. SILA:

16 Q. Okay. So the Web & App Activity control  
17 doesn't do that?

18 MR. SANTACANA: Misstates prior testimony.  
19 Vague. Calls for speculation.

20 THE WITNESS: I'm not positive what the  
21 current functions of the My Activity or Web & App  
22 Activity are at this point in time.

23 BY MR. SILA:

24 Q. As of the date of the testimony, when you  
25 worked at Google, the Web & App Activity control does

1 not provide users a way to stop Google from collecting  
2 all data from their activity on third-party apps, does  
3 it?

4 MR. SANTACANA: Misstates prior testimony.  
5 Vague. Calls for speculation.

6 THE WITNESS: I don't recall.

7 BY MR. SILA:

8 Q. Okay. Do you think Mr. Pichai accurately  
9 explained the settings that Google offers users to the  
10 Congress people in this clip?

11 MR. SANTACANA: Calls for speculation.

12 THE WITNESS: Did you say, "accurately"?

13 BY MR. SILA:

14 Q. Yes.

15 A. I wouldn't be able to speculate on the  
16 accuracy or inaccuracy of his statements.

17 Q. Did you notice any inaccuracy in his  
18 statements?

19 A. In watching it now?

20 Q. Yes.

21 A. I can't speak to any specific items that I  
22 recall being inaccurate nor can I speak to their act  
23 of accuracy.

24 Q. Okay. We can put this one away.

25 When you worked at Google, did you ever learn

1 about misuse of any data that Google saved?

2 MR. SANTACANA: Vague.

3 THE WITNESS: When you say, "misuse," what do  
4 you refer to?

5 BY MR. SILA:

6 Q. Contrary to Google's policy or the law.

7 A. I can't recall.

8 Q. When you worked in the PDPO, did you  
9 understand that Google saving of data inherently  
10 created risks that the data would be misused?

11 MR. SANTACANA: Vague.

12 THE WITNESS: When you say, "saving of" the  
13 "data," what data are you referring to?

14 BY MR. SILA:

15 Q. Sorry. I misspoke.

16 When you worked in the PDPO, did you  
17 understand that when Google saved data, there was a  
18 risk that that data would end up being misused?  
19 Sorry. I mean data in the general, nonspecific sense.

20 MR. SANTACANA: Vague.

21 THE WITNESS: When working in privacy, you're  
22 often evaluating things as very concrete risk models.  
23 So to talk about the risk of data in general would be  
24 less how we would think of it. So I'm not sure if  
25 that's a framework I would use to answer the question

1 Google?

2 MR. SANTACANA: Vague.

3 THE WITNESS: The term "trust score" can  
4 refer to various, different formulations of various,  
5 different questions about various, different privacy  
6 concerns. So it's hard for me to evaluate whether  
7 that is or isn't a surprise.

8 BY MR. SILA:

9 Q. Okay. Do you have any reason to doubt the  
10 accuracy of these figures?

11 MR. SANTACANA: Lacks foundation.

12 THE WITNESS: I neither have reason to doubt  
13 their accuracy nor to advocate for it. I'm not  
14 familiar with these figures.

15 BY MR. SILA:

16 Q. The user trust studies that you referenced  
17 remembering -- do you remember the formulations of  
18 those questions relating to user trust in those  
19 studies?

20 A. No.

21 MR. SILA: Okay. We can put this one away.

22 And I've introduced a document that I've  
23 marked as Plaintiffs' Exhibit 354, which is Bates  
24 numbered GOOG-RDGZ-00188868.

25 (Deposition Exhibit 354 was marked for

1 identification.)

2 MR. SILA: Let me know when you have it.

3 THE WITNESS: I have it.

4 BY MR. SILA:

5 Q. All right. Do you recognize this document?

6 A. Yes.

7 Q. What is it?

8 A. This document depicts notes from

9 [REDACTED]  
10 stakeholders across Google.

11 Q. And what was the purpose of those

12 [REDACTED]  
13 stakeholders across Google?

14 A. Those conversations were meant to gather  
15 information about Google's privacy, the space that  
16 Google operates in with respect to privacy, and inform  
17 the next steps of the program.

18 [REDACTED]  
19 manager, were you involved in those conversations?

20 A. I don't recall with specificity which  
21 specific conversations I was or wasn't involved in,  
22 but several of these conversations, I do remember  
23 being part of the conversation.

24 Q. Okay. Do you remember who took these notes  
25 about the conversations?

1 A. I don't.

2 Q. Do you remember if these notes were taken  
3 during the interview or conversation?

4 A. I don't.

5 Q. Did the [REDACTED] team rely on these  
6 notes?

7 A. Define "rely."

8 Q. Yeah. So used these notes for some later  
9 purpose. So look back at these notes and consider  
10 what's in them when performing some other activity.

11 A. To my recollection, these notes were used to  
12 inform future activity.

13 Q. Okay. Do you have any specific future  
14 activities in mind?

15 A. There was the preparation of, for example, a  
16 document summarizing Google's privacy landscape for  
17 which I recall us referencing these notes as part of  
18 that process.

19 Q. Okay. In your recollection, were these notes  
20 generally accurate?

21 MR. SANTACANA: Calls for speculation.  
22 Vague.

23 THE WITNESS: I don't recall the process by  
24 which they were taken or confirmed.

25 BY MR. SILA: